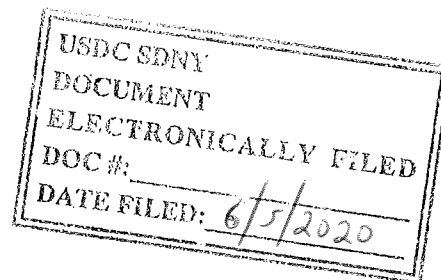


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
UNITED STATES OF AMERICA,

v.

NICHOLAS ALVAREZ,

Defendant.  
-----X**ORDER**

11 CR 169 (VB)

Defendant has filed a motion for a reduction of sentence pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). (See Doc. #164). Defendant's submission indicates that the exhaustion requirement, a prerequisite to making such a motion, has been satisfied. (See *id.* at 15).

Section 3582(c)(1)(A) contains an explicit exhaustion requirement: "[T]he court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment . . . if it finds that . . . extraordinary and compelling reasons warrant such a reduction."

Defendant's motion and its attachments show that on April 30, 2020, defendant made an application to the warden of his facility for compassionate release under Section 3582(c)(1)(A)(i), and that on May 18, 2020, the warden acknowledged defendant's request. (See Doc. #164 at 15; *see also* Doc. #164-3 at ECF 2, 4). According to defendant, as of June 3, 2020, he had not received a response from the warden respecting his application. (Doc. #164-3 at ECF 4).

Thirty days following defendant's application to the warden of his facility would be May 30, 2020. Accordingly, more than thirty days have lapsed since the warden's receipt of defendant's application. For this reason, defendant's motion is timely pursuant to Section 3582(c)(1)(A).

Accordingly, by June 26, 2020, the government is directed to file its response to defendant's motion. (Doc. #164). The government is directed to address the merits of the motion.

Dated: June 5, 2020

White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti".

Vincent L. Briccetti, U.S.D.J.